

1 meeting with all of the station or with the appropriate  
2 station personnel?

3 A All four of us together?

4 Q Yes.

5 A I can't remember anytime in the recent past.

6 Q Can you remember anytime when you did that?

7 A Yes.

8 Q When did you last do that?

9 A I would say it's been within the last 6 months. And  
10 I went down there to review the change in the health care from  
11 Health First to --

12 Q Have you ever had any such meetings with the  
13 personnel from the stations that are owned independently of  
14 Sinclair at the offices of Sinclair?

15 A No, I can't remember recently -- I think a general  
16 manager may have come up in the last couple of years one time  
17 to see my brother, Duncan.

18 Q If you're successful with your challenge to  
19 Sinclair, where do you contemplate --

20 MR. LEADER: Objection.

21 BY MR. GREENEBAUM:

22 Q I'm sorry. With your challenge to Channel 2, where  
23 do you contemplate that you would physically work?

24 A Channel 2.

25 Q And where would you take care of the non-Sinclair --

1 non-Channel 2 business and businesses that you and your  
2 brothers own and control?

3 A Could be at Channel 2 or Sinclair, wherever I happen  
4 to be.

5 Q You don't know.

6 A No.

7 Q You haven't thought about that.

8 A I really haven't thought about it.

9 Q Is it possible that you would really transfer  
10 everything you're doing now at the offices of Sinclair to the  
11 offices of Channel 2 and continue doing business as usual  
12 there?

13 A It's something I haven't thought about. Anything is  
14 possible.

15 MR. GREENEBAUM: No further questions, Your Honor.

16 JUDGE SIPPEL: Cross-examination --

17 MR. ZAUNER: Your Honor, I just have a couple of  
18 questions. I won't be long.

19 CROSS-EXAMINATION

20 BY MR. ZAUNER:

21 Q May I call your attention to tab 32 of Exhibit 40,  
22 that's this big volume. And you were asked some questions  
23 concerning this tab earlier by Mr. Greenebaum.

24 I just noticed on that page next to the names of the  
25 employees there's a class code.

1           A     Right.

2           Q     And I noticed that the class for you and your  
3 brothers is different than the class code for the other  
4 employees. Do you have any idea of what that class code  
5 refers to and why you're distinguished, you and your brothers  
6 are distinguished from the other employees?

7                   JUDGE SIPPEL: Well, hold it. That's not --

8                   WITNESS: Maybe management, maybe it means  
9 management.

10                  JUDGE SIPPEL: That's not altogether accurate.  
11 Because Mr. Amy is also in the same class as --

12                  WITNESS: Right.

13                  JUDGE SIPPEL: -- are the Smith brothers.

14                  MS. SCHMELTZER: No, he's not.

15                  MR. ZAUNER: No, he's not.

16                  MS. SCHMELTZER: No, he's not.

17                  JUDGE SIPPEL: He's not?

18                  MR. ZAUNER: Is it A --

19                  WITNESS: Or B. We're B001A. And everybody else is  
20 A001A or C. Is that what you mean?

21                  MR. ZAUNER: Yes.

22                  JUDGE SIPPEL: I see.

23                  WITNESS: I don't know what that means.

24                  JUDGE SIPPEL: I see that. But there is a class,  
25 there -- let me, let me just follow up my observation -- to

1 the left of the number is, are the letter B, and that applies  
2 only to the Smiths.

3 MR. ZAUNER: That's --

4 JUDGE SIPPEL: To the right is the letter -- of the  
5 number is the letter A, and that applies to the Smiths and to  
6 Mr. David Amy. Do you have any knowledge as to what those  
7 classifications mean?

8 WITNESS: No, I don't. Only thing I -- obviously  
9 they're, they're managers. Everybody there is a, is a  
10 management person, upper level management I mean, and the  
11 other people are not. That's the only difference I can  
12 ascertain.

13 JUDGE SIPPEL: Are the people with, the people with  
14 the As after the letter, after the number are upper, upper  
15 level management?

16 WITNESS: Level management. Yes.

17 JUDGE SIPPEL: And what would be their distinction  
18 between the Bs to the left of the number for the Smiths, only  
19 for the Smiths?

20 WITNESS: I, I don't know.

21 BY MR. ZAUNER:

22 Q Can I call your attention to Four Jacks  
23 Broadcasting, Inc. Exhibit 4, and that's the declaration of  
24 Frederick G. Smith.

25 A Is that the -- okay, got it.

1 Q Draw your attention to page 3. And in the second  
2 paragraph, the second sentence, you say, "For a year prior to  
3 July 1st, 1991, I devoted approximately 25 to 30 hours a week  
4 to SBG.

5 A Um-hum.

6 Q Did you consider that to be part-time work for SBG?

7 A I, I don't think I consider that part-time. Because  
8 I think where our company is describing full and part-time,  
9 full and part-time is 20 hours a week. So I would assume that  
10 would be a full-time job.

11 Q Well, then in the next sentence you say --

12 A Technically speaking.

13 Q -- you say, "On July 1st, 1991, I assumed a full-  
14 time executive position with the" --

15 A Meaning 40 hours a week.

16 Q -- "with the television business."

17 A That means 40 hours a week.

18 JUDGE SIPPEL: Lets's be sure these questions are  
19 asked and then you answer, Dr. Smith.

20 WITNESS: Sorry.

21 JUDGE SIPPEL: Because they're going to be  
22 overlapped for the reporter. It's going to be difficult.

23 MR. ZAUNER: One moment, Your Honor.

24 BY MR. ZAUNER:

25 Q Were you intending to imply by that sentence that

1 | you were working 40 hours a week for the, for SBG?

2 |       A     Yes. I think what I was trying to show here is that  
3 | just to be, you know, more in detail, from July '90 it was 25  
4 | to 30 hours a week. It wasn't a full 40 hours a week.  
5 | Whereas after July 1 it was a full 40 hours a week. Even  
6 | though both of those I think technically are, are considered  
7 | full-time employment.

8 |       Q     And your testimony here this morning was that you  
9 | worked approximately 2-1/2 days a week. Is that -- was it  
10 | changed then between September of 1993 and the current time?

11 |       A     No, on average I would say that my time there in the  
12 | station is about 2-1/2 days a week. I'm outside of the  
13 | building.

14 |       Q     Currently --

15 |       A     Physically in the building. I'm outside the  
16 | building 2 days a week in the last 4, 5, 6, 7 months at least.

17 |       Q     Well, if you work, you were working from July 1st,  
18 | 1991 until at least September 10th, 1993 40 hours a week --

19 |       A     Um-hum.

20 |       Q     -- what happened following your signing of this  
21 | declaration that caused your number of hours to decrease?

22 |       A     Well, two things. One is in the last 6 months we've  
23 | had a corporate aircraft which I've been involved outside of  
24 | the building coming up to speed to fly that. And so  
25 | therefore, I'm not in the building. Building a house.

1 Q I'm sorry, what was the --

2 A I'm building a house. And that's taken time. Every  
3 now and then I'll take days off to go take care of that.

4 Q When you were working the 40 hours a week for SBG,  
5 were you working solely on SBG business, or was it the other  
6 business involved also?

7 A Primarily it's the subsidiaries of Sinclair  
8 Broadcast Group that I spent the time on. Is that what you're  
9 asking?

10 Q Yes. Once you started to cut back on your time at  
11 SBG --

12 A Right.

13 Q -- who took up the duties that you had been  
14 performing?

15 A Well, once again, the duties I performing primarily  
16 were self-directed duties such as 401K and health and things  
17 that interested me. And either nobody picked them up, or one  
18 of my brothers picked them up if I wasn't there. Keep in  
19 mind, keep in mind that I'm still available if something is  
20 needed. I'm outside the building.

21 Q Well, you're still working 2-1/2 days a week --

22 A Sure.

23 Q -- at the station --

24 A And plus I'm available every day of the week if  
25 something is needed.

1           Q     If you are successful in your Channel 2 challenge,  
2 who will perform the functions that you're currently  
3 performing 2-1/2 days a week at the station? Who will be  
4 making the decisions that you're making?

5           A     Well, it hasn't been discussed. But it's  
6 obviously -- the amount of decisions I'm actually performing  
7 are very limited. I'm physically there. I'm not making  
8 decisions 2-1/2 days a week. I may be making decisions for 2  
9 hours a week. But I'm physically in the building 2-1/2 days a  
10 week.

11          Q     Well, what are you physically doing in the building  
12 the rest of the time?

13          A     Reading.

14          Q     For what purpose?

15          A     Knowledge.

16          Q     For what purpose?

17          A     Broadcasting.

18          Q     Why do you -- why are you looking for this knowledge  
19 of broadcasting? Isn't it --

20          A     Well --

21          Q     -- isn't it so that -- let me, let me put it this  
22 way. Isn't it, isn't it so that you can, that you'll use this  
23 knowledge in making your decisions? Isn't this really --

24          A     Absolutely.

25          Q     -- part of your decision process?



1           A     Sure.  Because we -- our main thrust -- when I meant  
2 knowledge, I meant rebroadcasts, electronic media, keeping up  
3 with the marketplace.  And the main thrust of what we do is  
4 discussion of what our next move is going to be.  What, what  
5 is out there that we can go do from a syndication standpoint  
6 or from a station standpoint?  That would be the topic of  
7 discussion not --

8           Q     My problem is when --

9                     JUDGE SIPPEL:  Not what?

10                  BY MR. ZAUNER:

11           A     Not what necessarily the general manager is doing  
12 that day.

13           Q     But wouldn't somebody still have to perform this  
14 function on behalf of SBG?

15           A     Well, historically it's been coming less and less as  
16 times goes on.  That's I think the point here.

17           Q     But you're still spending 2-1/2 days a week doing  
18 this, aren't you?

19           A     Oh.  Not 2-1/2 days making decisions.  I'm -- 2-1/2  
20 days reading, just sitting around --

21           Q     But --

22           A     -- with nothing to do basically.

23           Q     But we -- I thought we just established that, that  
24 this reading is part of your decision process, isn't it?

25           A     Well, reading is part of my knowledge base.

1 Q And that --

2 A I don't necessarily have to read to make the  
3 decisions. But in order to get knowledge of what's going  
4 industry, I'll sit around and read. I don't necessarily have  
5 to do that.

6 Q If you are successful in your Channel 2 challenge,  
7 do you see any functions at SBG that you would necessarily  
8 have to perform?

9 A Primarily the function of director for a board  
10 meeting once a year.

11 Q Would you still review expenditures by the stations?

12 A I may well if need be.

13 Q Well, if you didn't, who would?

14 A I have another brother. There are four of us.

15 Q Would the one brother that isn't integrated take  
16 that responsibility?

17 A He could do that. Um-hum.

18 Q You now have a process of two signatures, don't you,  
19 on each expenditure?

20 A That's correct.

21 Q And you would cut that back to one --

22 A Although, although -- let me step in here. Although  
23 recently over the last I would say year, year and a half there  
24 have been many times where one of us has signed. Because one  
25 of us is not in the building. And as I said, in the last year

1 and a half we used to have two people on every signature. Now  
2 sometimes there's one person on signature. But historically  
3 the rule is we try to keep as two signatures on every  
4 purchase. There are many, many now made with one.

5 For instance, my brother now does syndication one  
6 person on occasion. Doesn't necessarily talk to me or my  
7 other brothers.

8 MR. ZAUNER: I have no further questions.

9 JUDGE SIPPEL: Is there any redirect?

10 MS. SCHMELTZER: We have no redirect.

11 JUDGE SIPPEL: That's it then. That --

12 MR. GREENEBAUM: -- I, I just want to ask one  
13 question or line based on Mr. Zauner's cross. Dr. Smith --

14 JUDGE SIPPEL: Well --

15 MR. LEADER: Is that permissible?

16 MS. SCHMELTZER: I would just object, Your Honor.  
17 He had his opportunity --

18 MR. LEADER: There wasn't redirect. He had his  
19 opportunity.

20 MR. GREENEBAUM: I said based on --

21 MR. LEADER: Yeah, but you can't cross based on  
22 cross. Is that --

23 MS. SCHMELTZER: Right.

24 JUDGE SIPPEL: Well, it's --

25 MR. LEADER: -- it's a new --

1 JUDGE SIPPEL: Let me, let me hear what the question  
2 is going to be. Because I may want to hear it.

3 MR. GREENEBAUM: I just want to ask him when he's  
4 outside of the building working on the aircraft if he  
5 considers that to be work on behalf of Sinclair or something  
6 else. That's all I --

7 JUDGE SIPPEL: Well, I think that was asked and  
8 answered earlier on. I think it's going to be --

9 MR. GREENEBAUM: Very well. Then I have no further  
10 questions.

11 JUDGE SIPPEL: So you're concluded -- I'm not going  
12 to ask any questions, any further questions, Dr. Smith. You  
13 are excused as a witness now. And you and your brothers are  
14 free to discuss this testimony.

15 WITNESS: I will. Thank you.

16 (Whereupon, the witness was excused at 12:24 p.m.)

17 JUDGE SIPPEL: That's all that we have then.  
18 That's -- that concludes phase 2 of this proceeding.

19 I recognize the fact that I have pending before me a  
20 petition to enlarge the issues that was filed by Four Jacks.  
21 The reply pleading came in on the 6th of September. And  
22 I'm -- I have yet to rule on that. But the fact that that  
23 round of pleadings exists doesn't, shouldn't distract us from  
24 going forward with what we have here.

25 I have -- well, I think -- let me discuss dates off

1 the record, then we'll go back on the record.

2 (Off the record at 12:25 p.m. Back on the record at  
3 12:31 p.m.)

4 JUDGE SIPPEL: We're back on the record now. I'm  
5 going to give dates for pleadings in just a minute. Mr. Lane,  
6 you had a statement to make?

7 MR. LANE: Yes, Your Honor. Yesterday, Scripps  
8 Howard introduced Exhibit 46 which was portions of Four  
9 Jacks's application dated September 3rd, 1991. And at that  
10 time, counsel for Four Jacks represented that this document  
11 has been amended on several occasions. And we just wanted to  
12 have the record reflect that the tabs and portions of the  
13 application that was relied on which are Exhibit 6 and Exhibit  
14 4 which pertain to integration and diversification have not  
15 been amended so far as we know.

16 MS. SCHMELTZER: Well, except that there has been an  
17 integration statement filed which related to that. But I  
18 didn't make the representation --

19 MR. LANE: No, I, I -- my apologies if --

20 JUDGE SIPPEL: And the -- I hear you. And the  
21 Exhibit 6 and the Exhibit 4 you referred to are the, the  
22 numbers that are attached to Exhibit 46. These are not  
23 separate exhibits, hearing exhibits.

24 MR. LANE: No. Right. They are -- in fact, they  
25 are exhibits to the application which is in fact Scripps

1 Howard Exhibit 46.

2 JUDGE SIPPEL: All right. I think that's, that  
3 states it clearly.

4 The dates that I'm setting as we disagreed off -- as  
5 we have agreed to off the record are the 14th of October, 1994  
6 will be corrections to transcripts. December 5th, 1994,  
7 proposed findings and conclusions. December 21st, 1994, reply  
8 proposed findings and conclusions. And all of those pleadings  
9 relate to the phase 2 added issues in this case and only to  
10 those issues.

11 That's it. And we're in -- well, we're, we're in  
12 recess until any further call or until there's an initial  
13 decision issued. Off the record.

14 (Whereupon, the hearing ended at 12:31 p.m.)  
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**CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER**

IN RE APPLICATION BALTIMORE, MARYLAND

**Name**

DOCKET NO. 93-94

**Docket No.**

WASHINGTON, D.C.

**Place**

SEPTEMBER 14, 1994

**Date**

We, the undersigned, do hereby certify that the foregoing pages, numbers 2120 through 2232, inclusive, are the true, accurate and complete transcript prepared from the reporting by Paula McNulty in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

9/22/94

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